

Examiner errs in concluding that the species lack the same or corresponding special technical features.

The additional contention by the Examiner lines in 1-5 on page 3 of the Office Action mailed March 25, 2008, that each compound requires mutually exclusive characteristics not required for the other compounds, the Examiner setting forth illustrative moieties not required in all species, is noted. It is respectfully submitted that such different moieties do not establish mutually exclusive characteristics, under PCT Rule 13.2.

It is again emphasized that the various species have the common chroman structure. Accordingly, it is respectfully submitted that even assuming, arguendo, the claims include different species, a search and examination of all the claims can be made without serious burden, so that the requirement for election-of-species herein is improper. See Manual of Patenting Examining Procedure (MPEP) 803.

In any event, and as indicated previously, Applicants respectfully elect the Species i), that is, 6-hydroxy-2,5,7,8-tetramethylchroman-2-carboxylic acid. It is respectfully submitted that all of claims 1-12 read on the elected species.

The indication by the Examiner on page 2 of the Office Action mailed March 25, 2008, that claim 1 is a generic claim, is noted. In addition to claim 1, it is respectfully submitted that claims 2-8, 11 and 12 are generic claims. Upon allowance of any of claims 1-8, 11 or 12, it is respectfully submitted that the species claims dependent thereon are to be rejoined in the above-identified application and allowed to issue in a U.S. patent issuing therefrom.

In addition, the species listed by the Examiner in the second paragraph on page 2 of the Office Action mailed March 25, 2008, are noted. Listed in this paragraph, from claim 8, are 9 of the species of the Markush group in claim 8. It is respectfully submitted that claims directed to the other species in the Markush group of claim 8, not listed on page 2 of the Office Action mailed March 25, 2008, are to be included with the elected specie.

Accordingly, and in order to provide a complete response to the Office Action mailed March 25, 2008, Applicants again set forth their election of Specie i), that is, 6-hydroxy-2,5,7,8-tetramethylchroman-2-carboxylic acid, and make this election with traverse, and note that all of claims 1-12 read on the elected specie.

Noting the present traverse of the election-of-species requirement, reconsideration and withdrawal of this requirement, with examination of all claims presently pending in the above-identified application, without regard to species, are respectfully requested. In any event, Applicants respectfully elect Specie i), with traverse, and indicate that all of claims 1-12 read thereon.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to

Deposit Account No. 01-2135 (Case No. 396.45660X00) and please credit any excess fees to such deposit account.

Respectfully submitted,

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Attachments